

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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James Dean Steenhard,

Case No. 23-CV-3844 (NEB/DJF)

Petitioner,

v.

**REPORT AND RECOMMENDATION**

State of Minnesota

Respondent.

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Petitioner James Dean Steenhard initiated a habeas corpus action in this District, *see* (ECF No. 1), but failed to either pay the filing fee or request *in forma paupers* (IFP) status. In a letter dated December 19, 2023, the Clerk informed Petitioner of the requirement to either pay the filing fee or submit an IFP application to proceed in this action. (ECF No. 2.) The Court's Clerk instructed Petitioner to either pay the \$5 filing fee or submit an IFP application by January 2, 2024, failing which this case could be subject to dismissal. (*Id.*)

That deadline has now passed, and Petitioner has neither paid the filing fee associated with this action nor submitted an IFP application. Moreover, the Clerk's letter was returned as undeliverable with no forwarding address available, and Petitioner has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, consistent with the Clerk's letter, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without

prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: January 12, 2024

s/ Dulce J. Foster

Dulce J. Foster

United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).